

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on March 15, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Hess and Gordon - Excused

Committee staff present:

Bill Wolff, Legislative Research  
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department  
Larry Magill, Independent Insurance Agents of Kansas

The minutes of March 14 were approved.

The hearing began on HB 2753 dealing with the examination of insurance companies with the testimony of Ron Todd of the Kansas Insurance Department. Mr. Todd explained that the bill would delete the current requirement that the Commissioner examine each domestic company once every three years and each foreign company once every five years. The purpose of the bill is not to lessen any financial guardianship but to more properly use assets. The Commissioner would examine companies when he feels it is necessary. Mr. Todd said that often companies that really need to be examined cannot afford it because the cost of the examination could seriously affect the surplus fund of that company. To relieve this situation, a fund of up to \$25,000 would be accumulated by the Commissioner from an additional charge on examinations that would be used to pay examiners who examine companies which cannot afford the fee.

The chairman inquired what the basis was for the 150% on line 108 of the bill. Mr. Todd said that the examiners' annual leave is based on the amount of days they are out doing examinations. He added that the bill gives the Commissioner more flexibility and will not be an imposition on the companies that are examined. Also, it allows the Commissioner to better utilize the personnel. Mr. Todd said that he had had no objections on behalf of the insurance industry to the bill.

The chairman inquired further as to how the Department would know when a company is in need of an examination. Mr. Todd replied that the larger companies do not need to be examined every three years unless it would be under some special circumstance. The National Association of Insurance Commissioners files annual statements which supply an early warning system of insolvency. The chairman asked why a company which is being considered as insolvent by the Department could not be handled by issuing a cease and desist order. Mr. Todd answered that this would be closing the business without certain evidence. The chairman asked further why annual leave was used to determine the fee. Mr. Todd said that is is a benchmark which allows the Department to receive an equitable amount from companies.

Sen. Feleciano expressed his concern over the bill as being just a "welfare" program for insurance companies. Mr. Todd stated that the Department does not intend to loosen up the rules but to more properly utilize the examiners they are able to employ.

In reference to Section 2 of the bill, Sen. Werts expressed his feeling that 40-223 seems too complicated of a process to determine the examiner's fees and suggested that it could be simplified. Mr. Todd said that he would have no problem in simplifying the process as suggested by Sen. Werts but that the insurance companies may have a problem with it. He added that the laws on insurance are as in 40-223 in most states.

In response to a question from Sen. Karr as to how the bill would affect the safety of insurance companies, Mr. Todd said the Department looks at the bill not as a deterrent to solvency and safety but as an improvement.

The chairman again expressed his concern with the formula for establishing the fund

CONTINUATION SHEET

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room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 15, 1984

in Section 2 and asked Mr. Todd to give typical dollar amounts for the 150%. Mr. Todd responded that the smallest amount would be \$187 and the largest would be \$2544. The chairman commented that it appears that a few could be paying all and some none. Mr. Todd feels that all companies will be contributing some and reiterated that the insurance companies have expressed no concern over this policy. Sen. Werts asked if currently it is working to have companies near insolvency pay the examination fee. Mr. Todd said that it was, but the bill will help keep companies from going out of business. The hearing was concluded.

The hearing began on HB 2754 dealing with countersignature laws for Kansas on insurance policies. Larry Magill, Independent Insurance Agents of Kansas, testified in support of the bill. (See Attachment I.)

The chairman asked what value there is in the countersignature. Mr. Magill replied that it helps the agent by keeping his name before his customer and it helps clients to get a better response to their questions by contacting an agent rather than just calling the company. The chairman asked for a definition of "non-resident agent". Mr. Magill answered that the agent is licensed in Kansas but does not live in Kansas.

Mr. Todd stated that the Insurance Department supports the bill.

Sen. Pomeroy moved to report HB 2754 favorably, Sen. Karr seconded, and the motion carried.

The chairman asked the committee if it wished to act on HB 2753.

Sen. Werts moved that Section 2 be stricken from the bill. Sen. Gannon seconded, and the motion carried.

Sen. Reilly moved to report HB 2753 favorably as amended. There was no second to the motion.

The chairman announced that HB 2753 would be taken under advisement.

The meeting was adjourned.



Testimony on HB 2754

By: Larry W. Magill, Jr., Executive Vice President  
Independent Insurance Agents of Kansas

Thank you for the opportunity to appear today in support of HB 2754, a measure we requested the House Insurance Committee introduce this year. As an association, the Independent Insurance Agents of Kansas feel a continuing responsibility to improve and strengthen state regulation by recommending refining laws and regulations where appropriate, and discarding them when they can no longer be justified. This is the only way to preserve state regulation in the face of mounting federal pressure. The countersignature laws are no longer necessary to protect the consumer. Rather, they have become a formality when the fees are frequently paid when no services are rendered; they impede interstate competition; and add cost and delay to the delivery of insurance. These laws are prominently mentioned by federal critics as a justification for federal regulation of our business and have been the focus of critical debate with the National Association of Insurance Commissioners.

In 1980, the Kansas Countersignature Law was amended to allow a resident agent to agree with his insurance companies to allow use of facsimile signatures or printing of the agent's name and address on policies rather than actual countersignature. We support this change, since it allows a more efficient handling of business yet continues to keep the agent's name before his customer. HB 2754 does not change what was done in 1980. It does, on a reciprocal basis, allow an agent from another state who has a Kansas nonresident agent's license to countersign policies that he or she writes on Kansas risks. In other words, it eliminates Kansas resident agent countersignature on business written by Kansas nonresident agents.

Attachment I

First, to protect the Kansas consumer by assuring that the policy conformed to laws and practices of Kansas. Second, to provide the insured with recourse in the event of a dispute by allowing the insured to sue the out-of-state insurance company through its resident agent. Third, when our present countersignature law was first enacted in 1927, to aid the Insurance Department in premium tax collection through the recordkeeping required of resident agents on policies they countersigned.

Today, states have the regulatory capability to assure that business produced by nonresident agents conforms to local laws and practices. Policy forms are much more standardized today across the country and the companies are held accountable by the Insurance Department to see that special Kansas forms are attached on Kansas policies.

The Commissioner is normally named for service of process by out-of-state insurance companies eliminating the need to sue through a countersigning agent. The Department also has other more effective and efficient means of insuring premium tax collection than through the countersigning agents.

There is a potential errors and omissions professional liability exposure, even if just for defense costs, due to countersigning a policy. Unless the countersigning agent does a complete survey, they have no idea if coverage is appropriate or properly written.

Countersignature requirements have been criticized by the federal government through the Department of Justice and the Department of Commerce as an artificial restraint of trade and a reason for government intervention in the state regulation of insurance. For that reason, all the national producer associations have taken official positions recommending repeal.

The Independent Insurance Agents of Kansas support continued strong state regulation of insurance under the provisions of the McCarran-Ferguson Act. We also want to promote the most efficient delivery of the product to the consumer. Today, 19 states have waived nonresident countersignature and of those 19, 9 have done so on a reciprocal basis. These states include the immediate adjoining states of Missouri, Nebraska and Colorado.

We urge the committee to report HB 2754 favorably for passage.